Exhibit 14
Carabini Testimony

Page 2

1   UNITED STATES

2   COMMODITY FUTURES TRADING COMMISSION

3

4   ---------------------------------

      In re:)

5   )

      Certain person Engaging in   )

6   Unlawful Retail Commodity   )

      Transactions   )

7   )

8

9

10

11

12

13

14   SWORN TESTIMONY of LOUIS CARABINI, taken at

15   444 South Flower Street, Suite 900, Los Angeles,

16   California, commencing at 9:07 A.M., Tuesday,

17   March 3, 2015, before Ricki Q. Melton, CSR 9400,

18   RPR 45429.

19

20

21

22

23

24

25

Page 3

1   APPEARANCES OF COUNSEL:

2

3   FOR THE COMMODITY FUTURES TRADING

4   COMMISSION:

5   COMMODITY FUTURES TRADING COMMISSION

6   BY: CARLIN METZGER, ESQ.

7   JOSEPH A. KONIZESKI, ESQ.

8   525 West Monroe Street, Suite 1100

9   Chicago, Illinois 60661

10   (312) 596-0546

11   jkonizeski@cftc.gov

12   cmetzger@cftc.gov

13

14   FOR THE WITNESS:

15

16   FARELLA BRAUN & MARTEL LLP

17   BY: NEIL GOTEINER, ESQ.

18   235 Montgomery Street, 17th Floor

19   San Francisco, California 94104

20   (415) 954-4400

21   ngoteiner@fbm.com

22

23   ALSO PRESENT:

24   GREG WALKER

25

Page 51

1   calculation, but I can't remember right now how I did

2   it, but -- and I could say this, I could do it again,

3   but to answer how I would do it, I would probably go

4   to the financial instruments that track revenue, and

5   I would believe that we have something in-house that

6   would accumulate that on a monthly basis and because

7   the auditors review that and we -- well, I'm not

8   sure, but we also report in the state of California

9   each year because we're a financed lender.

10   Q   So for those reporting purposes, you would

11   track how much interest?

12   A   I think so, yes.

13   Q   Now a moment ago, I believe that you

14   mentioned some other sources of revenue. Interest

15   was one of them, and in that case, we're talking

16   1 percent. What are the other sources of -- the

17   general buckets of revenue. How would you describe

18   those?

19   A   Well, the primary source of revenue is the

20   sale of a product.

21   Q   So there's interest is one category; is that

22   accurate?

23   A   Yes.

24   Q   In terms of the sale of the product, I have

25   also seen service fees.

Page 52

1   Is that another source of revenue for Monex?

2   A   Yes.

3   Q   I've also seen commissions.

4   Is that another source of revenue for Monex?

5   A   Yes.

6   Q   How about a price spread? Is that

7 another --

8   A   No.

9   Q   -- category of revenue for Monex?

10   A   No.

11   Q   Why not?

12   A   It isn't revenue. To get revenue, it has to

13 be income. Income is from the sale of a product,

14 delivery charges, storage and service charges,

15 interest charges.

16   Q   From which general category of revenue then,

17 does Monex make most of its revenue?

18   A   Sales.

19   Q   Does Monex make more revenue from fully paid

20 transactions or financed Atlas transactions?

21   A   I don't know.

22   Q   If you wanted to figure it out, how would

23 you do it?

24   A   I would go to that 401 again and go from

25 there. Yeah, probably the 401.

Page 65

1   A   Well, during the first six months, there's a

2 declining among the training. During the first

3 month, you would have classroom training and -- and

4 then there's meetings, account representatives,

5 markets generally once a week.

6   Q   Who is responsible for the initial training

7 provided to Monex account representatives?

8   A   Well, there are several involved in the

9 training of the -- I don't know if his title is

10 training. I can't remember -- I don't recall the

11 title of the person who organizes the meetings --

12 excuse me -- the training, and different people will

13 make presentations to the trainings.

14   Q   In one of the declarations that I referred

15 to earlier, you stated:

16   "After training and a phase-in

17   period at the beginning of

18   employment, account representatives

19   are paid exclusively on a

20   commission basis."

21   Is that statement still accurate today?

22   A   Say that again? How did I say it there?

23   Q   "After training and a phase-in

24   period at the beginning of

25   employment, account representatives

Page 66

1   are paid exclusively on a

2   commission basis."

3   A   I would guess -- that's fairly accurate.

4   They are -- they receive salary plus commission, I

5   think, for the first six or nine months.

6   Q   Okay. And so after a certain point --

7   A   Yes.

8   Q   -- six or nine months, the sale -- the

9   account representatives are paid exclusively on

10 commission?

11   A   Yes.

12   Q   In the declaration you also say:

13   "Commissions are calculated based

14   on an assigned percentage of a

15   customer's transaction amount

16   called index points."

17   Is that --

18   A   Yes.

19   Q   -- still accurate today?

20   A   Yes.

21   Q   Can you describe for us how these index

22 points are calculated?

23   A   I think the best source to learn how that --

24 how it works is to go to the Desktop Guide that we

25 sent you. There's a -- there's a page titled "Index

Page 97

1   A   Yes.

2   Q   When Monex lends the commodities to the

3   customer, what happens?

4   A   They borrow it, and most customers will sell

5   it to MDC.

6   Q   So do the metals move anywhere in that

7   transaction?

8   A   Most likely not. I don't know what they do

9   at the depository, but title passes from MCC to the

10   borrower and from the borrower to MDC if they sell

11   it. They don't have to sell it. They can take it

12   home.

13   Q   How does title pass to commodity somebody is

14   borrowing?

15   A   By documentation.

16   Q   What documentation gets executed?

17   A   Well, there's one called Custodial Report.

18   There's one called -- well, it's a 334. The -- also

19   the Commodity Transfer Notice that's sent by the

20   depository to the customer.

21   Those are the three primary documents.

22   Q   So taking just a step back, the customer is

23   borrowing commodities from Monex Credit; right?

24   A   Correct.

25   Q   Does Monex Credit still own the commodities?

Page 98

1   A   No.

2   Q   Why isn't that a sale, then, of commodities

3   to the customer?

4   A   Because it isn't.

5   Q   What documents get executed transferring

6   title in this borrowing of the metals from Monex to

7   the customer?

8   A   Ticket, trade tickets because normally, as I

9   said, the customer in order to meet the requirement

10   of the -- requirements of the collateral of

11   125 percent will sell the commodity to MDC and the

12   proceeds of the sale is deposited in his account as

13   collateral.

14   Q   So, again, the customer has borrowed metals

15   from Monex and sold them back to Monex; right?

16   A   No. Because here you have to separate the

17   companies.

18   Q   Does Monex -- do these Monex companies have

19   consolidated financial statements?

20   A   They each have their own. I guess -- well,

21   let me answer, no.

22   Q   What happens if the price rises?

23   MR. GOTEINER: Vague and ambiguous.

24   BY MR. METZGER:

25   Q   In this commodity loan transaction -- how

Page 108

1   liquidations was?

2   A   I think so.

3   Q   Are you able to figure out what percentage

4   of customers have had forced liquidations or forced

5   repurchases?

6   A   I think so.

7   Q   You would be able to figure out the dollar

8   value of those transactions too; right?

9   A   The dollar transaction? You mean what the

10   trade took place at?

11   The trade takes place at a price. That

12   price is on record.

13   Q   Sure.

14   You would be able to figure the trading --

15   the initiating trade price, right, and the trade

16   price --

17   A   Sure.

18   Q   -- at the time of the force?

19   A   Yeah, you could.

20   Q   You would be able to figure out the profit

21   or loss to the customer too; right?

22   A   Yes.

23   Q   Have you ever run any studies to figure out

24   how -- what percentage of Monex customers have had

25   forced sales or liquidation or repurchases?

Page 137

1   (Exhibit 7 was marked for

2   identification by the reporter

3   and is attached hereto.)

4   BY MR. METZGER:

5   Q   This document we have marked as Exhibit

6   No. 7 is a document produced by Monex with Bates

7   number MNX-CFTC_450991 through 992. It's a two-page

8   document entitled --

9   A   I'm sorry.

10   Q   -- "Position Report Analysis," and it's

11   double-sided. It's copied on both pages.

12   A   Where is the number you were just -- oh,

13   here it is. I'm sorry.

14   Yes, got it.

15   Q   Okay. Do you recognize this document?

16   A   I'm not sure if I saw this before. I would

17   think I know what it is, but I don't know if I saw it

18   before.

19   Q   Do you know what a Position Report is?

20   A   Yes.

21   Q   What is a Position Report?

22   A   It's a report about the customer's position.

23   Q   Okay. On this document, which is entitled

24   "Position Report Analysis," it appears to be a

25   description of the various fields that appear in the

Page 138

1   position reports generated by Monex; is that

2   accurate?

3   A   Yes.

4   Q   So among other things, the Position Report

5   will contain the customer's account number; right?

6   A   Yes.

7   Q   I see one for company code it says, "H

8   equals Atlas company."

9   Do you see that?

10   A   Well, it's not correct.

11   Q   What should it be?

12   A   H is Monex Deposit Company.

13   Q   Does the H reflect whether the customer has

14 an Atlas account?

15   A   No.

16   Q   What --

17   A   I don't think so. H is generally the

18 company. I don't think that's correct.

19   Q   What other company besides Monex would

20 appear there?

21   A   Monaco.

22   Q   So these same position reports are generated

23 for both Monex and Monaco?

24   A   Well, no, the code, the company code that's

25 used for Monaco is different than that used for Monex

Page 139

1   Deposit Company. I can't remember what it is.

2   Q   So are the position reports generated for

3   both Monex and Monaco?

4   A   I don't know.

5   Q   They are differently generated for Monex?

6   A   Yes.

7   Q   You are not sure whether they are generated

8   for Monaco?

9   A   That's what I said.

10   Q   It has other fields of information. For

11   example, there's a field for gain or loss.

12   Do you see that?

13   A   Yes.

14   Q   And that would reflect the total unrealized

15   gain or loss for all open positions in the account;

16   is that right?

17   A   Yes, that's correct.

18   Q   The report would reflect specific trade

19   numbers and the dates of those trades?

20   A   Yes.

21   Q   Would it also show each individual

22   customer's current equity percentage as of the date

23   of the report?

24   A   Yes.

25   Q   Would it also reflect the dollar value of

Page 140

1   the equity in the account?

2   A   Yes.

3   Q   There's a field for "M-CUSH." Do you see

4   that?

5   A   Yes.

6   Q   What does that reflect?

7   A   If you go to the prior one, that's the

8   difference between the minimum, which would be

9   14 percent, and whatever it is.

10   Q   On this particular report, it says:

11   "M-CUSH/F-CUSH dollar equity

12   available before margin calls

13   forced liquidation levels."

14   Do you see that?

15   A   Yeah, that's right.

16   Q   Is that what it reflects?

17   A   Yes.

18   Q   There's a field I see for "Update/Term." It

19   says:

20   "Last date there was an update to

21   that position or termination dates

22   for limits, stops."

23   Do you see that? It's at the top.

24   A   Yeah, I see it.

25   Q   Okay. What does it mean "the last date that

```
                                                  Page 148

 1       A     I would have to look at the screen and see

 2   and look at the screen with non-Vs and then compare

 3   it to the ones with the Vs.

 4            On the reports that we have given, it

 5   indicates the V products.

 6       Q     So there would be a field then --

 7       A     Yes.

 8       Q     -- it would show up in this commodity code;

 9   right?

10       A     Yes.

11       Q     So you would be able, in the system, sort

12   by --

13       A     Yeah.

14       Q     -- whether it's a V product or not?

15       A     Yes.

16       Q     The next column to the right here is

17   "Balance."

18            Do you see that?

19       A     Yes.

20       Q     What does the balance signify on the

21   Position Report?

22            It looks like there are three line items for

23   this sample transaction.

24       A     Account balance.  I'm going to have to read

25   in the box here.
```
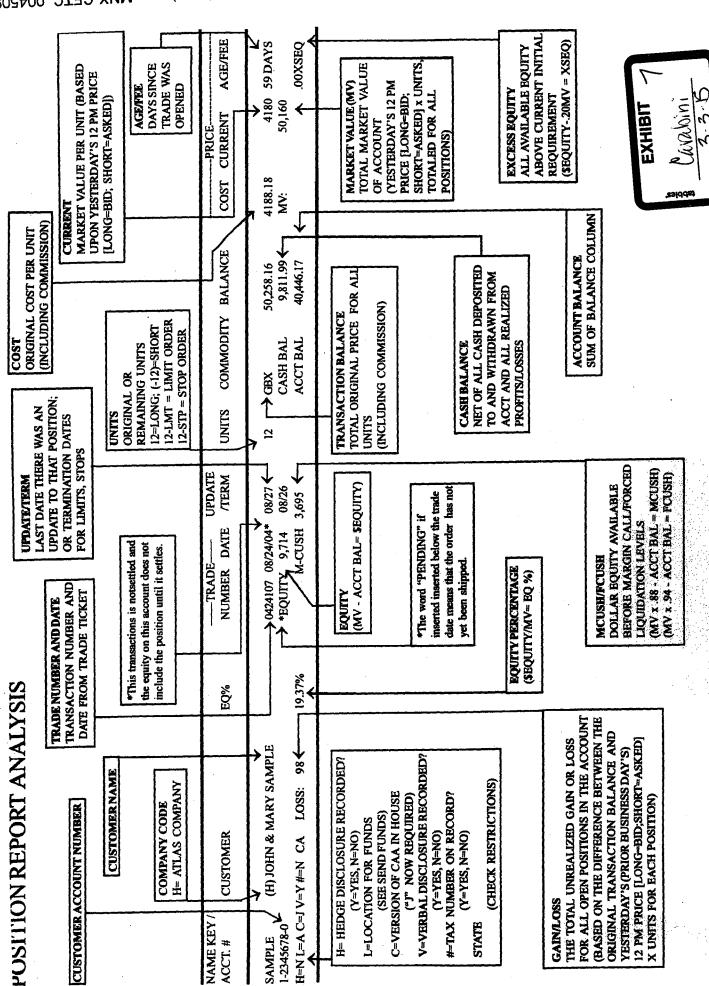
Page 149

1   I guess I can only tell you what it says in

2   the box is cash balance. It's:

3   "Net of all cash deposited to and

4   withdrawn from account and all

5   realized profit and losses."

6   I would have to give that some thought to be

7   able to answer it other than reading it.

8   Q   Okay. So in this particular example, it

9   looks to me like the top balance number is the market

10   value of the commodity in the account; right?

11   A   It appears to be, yes.

12   Q   The line item immediately below would

13   reflect the cash balance which is the net of all cash

14   deposited to and withdrawn from the accounts and all

15   realized profits and losses; right?

16   A   Yes.

17   Q   And then there's one more line item which is

18   "Account Balance," and it just says, "Sum of the

19   balance column."

20   A   Yes.

21   Q   There's just a few more columns on this

22   report. One is the -- the one immediately to the

23   right is the "Cost."

24   Do you see that?

25   A   Yes.

Page 150

1   Q   Is that the original cost?

2   A   Yes.

3   Q   And then immediately to the right, there's

4   the "Current Price"; right?

5   A   Right.

6   Q   Okay. And then the very last column is the

7   "Age/Fee."

8   Do you see that?

9   A   Yes.

10   Q   I understand the reference to the age,

11   because on this sample, it shows 59 days for this

12   transaction.

13   Do you see that?

14   A   Yes.

15   Q   I don't understand fee. Do you know what

16   that means --

17   A   No.

18   Q   -- in this sample?

19   A   Let me look above here.

20   No, I don't know what -- I don't know what

21   it means.

22   Q   It also reflects immediately below that this

23   XSEQ number.

24   Do you see that?

25   A   Yes.

Page 178

1   MNX-CFTC_517418.

2   Do you recognize this document?

3   A   Yes.

4   Q   What is this?

5   A   "Commodity Title Transfer Notice."

6   Q   This is a sample of the "Commodity Title

7   Transfer Notice"; is that right?

8   A   Yes.

9   Q   This one is -- shows a custodian of

10   Farmers & Merchants Bank of Long Beach.

11   Do you see that?

12   A   Yes.

13   Q   There's a code number --

14   A   Yes.

15   Q   -- in the middle of that "Commodity Title

16   Transfer Notice."

17   Do you see that?

18   A   Yes.

19   Q   First of all, who generates this document?

20   A   Monex.

21   Q   And these --

22   A   Prints it, yes.

23   Q   And so these are the document that Monex

24   will print and then transmit to, in this case,

25   Farmers & Merchants Bank of Long Beach to send on to

Page 179

1   a Monex customer?

2   A   Correct.

3   Q   These documents are printed daily by Monex?

4   A   Yes.

5   Q   And sent then to either Farmers and

6   merchants or Delaware depository, the other one --

7   the other depository every day?

8   A   If they are -- yeah, the one that's to go

9   out, it would go out daily.

10   Q   In the middle of this form, it looks like

11   there are -- there's a code number.

12   Do you see that?

13   A   It's a reference number, yes.

14   Q   What is the reference number?

15   A   Below it identifies the reference number.

16   Q   So it can either be 1, 2, or 3; is that

17   right?

18   A   Correct.

19   Q   And the reference number would correspond to

20   paragraphs 1, 2, or 3 in the standard terms and

21   conditions reflected in this document below the

22   notice?

23   A   Yes.

24   Q   What, in general, does 1 mean?

25   A   What it says. I mean:

POSITION REPORT ANALYSIS

CUSTOMER ACCOUNT NUMBER

CUSTOMER NAME

COMPANY CODE H= ATLAS COMPANY

NAME KEY/ ACCT. #	CUSTOMER
SAMPLE 1-2345678-0	(H) JOHN & MARY SAMPLE

H=N L=A C=J V=Y #=N CA LOSS: 98

TRADE NUMBER AND DATE TRANSACTION NUMBER AND DATE FROM TRADE TICKET

UPDATE/TERM LAST DATE THERE WAS AN UPDATE TO THAT POSITION; OR TERMINATION DATES FOR LIMITS, STOPS

COST ORIGINAL COST PER UNIT (INCLUDING COMMISSION)

CURRENT MARKET VALUE PER UNIT (BASED UPON YESTERDAY'S 12 PM PRICE [LONG=BID; SHORT=ASKED])

AGE/FEE DAYS SINCE TRADE WAS OPENED

UNITS ORIGINAL OR REMAINING UNITS 12=LONG; (-12)=SHORT 12-LMT = LIMIT ORDER 12-STP = STOP ORDER

*This transactions is not settled and the equity on this account does not include the position until it settles.

TRADE NUMBER	DATE	UPDATE /TERM
0424107	08/24/04*	08/27

EQ%

*EQUITY 9,714 08/26

M-CUSH 3,695

UNITS	COMMODITY	BALANCE		PRICE COST	CURRENT	AGE/FEE
12	GBX		MV: 4188.18		4180	59 DAYS
	CASH BAL	50,258.16				50,160
	ACCT BAL	9,811.99				
		40,446.17				

.00XSEQ

MARKET VALUE (MV) TOTAL MARKET VALUE OF ACCOUNT (YESTERDAY'S 12 PM PRICE [LONG=BID; SHORT=ASKED] x UNITS, TOTALED FOR ALL POSITIONS)

EXCESS EQUITY ALL AVAILABLE EQUITY ABOVE CURRENT INITIAL REQUIREMENT ($EQUITY-.20MV = XSEQ)

TRANSACTION BALANCE TOTAL ORIGINAL PRICE FOR ALL UNITS (INCLUDING COMMISSION)

CASH BALANCE NET OF ALL CASH DEPOSITED TO AND WITHDRAWN FROM ACCT AND ALL REALIZED PROFITS/LOSSES

ACCOUNT BALANCE SUM OF BALANCE COLUMN

EQUITY (MV - ACCT BAL = $EQUITY)

*The word "PENDING" if inserted below the trade date means that the order has not yet been shipped.

EQUITY PERCENTAGE ($EQUITY/MV= EQ %)

MCUSH/FCUSH DOLLAR EQUITY AVAILABLE BEFORE MARGIN CALL/FORCED LIQUIDATION LEVELS (MV x .88 - ACCT BAL = MCUSH) (MV x .94 - ACCT BAL = FCUSH)

H = HEDGE DISCLOSURE RECORDED? (Y=YES, N=NO)

L=LOCATION FOR FUNDS (SEE SEND FUNDS)

C=VERSION OF CAA IN HOUSE ("J" NOW REQUIRED)

V=VERBAL DISCLOSURE RECORDED? (Y=YES, N=NO)

#=TAX NUMBER ON RECORD? (Y=YES, N=NO)

STATE (CHECK RESTRICTIONS)

GAIN/LOSS THE TOTAL UNREALIZED GAIN OR LOSS FOR ALL OPEN POSITIONS IN THE ACCOUNT (BASED ON THE DIFFERENCE BETWEEN THE ORIGINAL TRANSACTION BALANCE AND YESTERDAY'S (PRIOR BUSINESS DAY'S) 12 PM PRICE [LONG=BID;SHORT=ASKED] X UNITS FOR EACH POSITION)

EQ% 19.37%

NOTE: ALL CALCULATIONS BASED UPON 20% INITIAL EQUITY, 12% EQUITY CALL AND 6% FORCED LIQUIDATION LEVELS.

EXHIBIT 7
Carabini
3.3.5

POSITION REPORT ANALYSIS (Continued)   MONEX

SAMPLE   (H) CHARLES SAMPLE

1-2345678-0   H (100) 123-4567   B (100) 123-7890

ATF

L=Y C=Y V=Y #=Y SWA ⑨   LOSS 640 ①   EQ: 23.05% ③

0429203	01/20/93 ②	02/09	02/09	4 SB	14,996.48	3749.12	3589
EQUITY:	3,308		02/09	CASH BAL	3,948.94-	MV:	14,356 ④
	MCUSH: 1,585 ⑦	FCUSH: 2447 ⑧		ACCT BAL	11,047.54 ⑤	437.26	XSEQ ⑥

L: LOCATION
C: COMMODITY ACCOUNT AGREEMENT
V: VERBAL DISCLOSURE
#: W-9

1   BREAK-EVEN MINUS 12:00 PM BID X UNITS = LOSS OR GAIN

2   MARKET VALUE MINUS ACCOUNT BALANCE = DOLLAR EQUITY

3   DOLLAR EQUITY DIVIDED BY MARKET VALUE = EQUITY PERCENT

4   12:00 PM BID X UNITS = MARKET VALUE

5   TRANSACTION BALANCE MINUS CASH BALANCE = ACCOUNT BALANCE

6   MARKET VALUE X .80 = $\underline{A}$
    A MINUS ACCOUNT BALANCE = EXCESS EQUITY

7   MARKET VALUE X .88 = $\underline{A}$
    A MINUS ACCOUNT BALANCE = MCUSH

8   MARKET VALUE X .94 = $\underline{A}$
    A MINUS ACCOUNT BALANCE = FCUSH

9   STATE RESTRICTION

Above calculation based upon 20% initial equity, 12% equity call and 6% forced liquidation levels.

TO DETERMINE COLLATERAL CALL AMOUNT:

MARKET VALUE X UNITS = TOTAL MARKET VALUE
TOTAL MARKET VALUE X RESTORATION COLLATERAL % = ACTUAL EQUITY DOLLARS REQUIRED IN THE ACCOUNT
TOTAL MARKET VALUE MINUS ACCOUNT BALANCE = ACTUAL EQUITY DOLLARS IN THE ACCOUNT
ACTUAL DOLLARS REQUIRED IN THE ACCOUNT MINUS ACTUAL EQUITY DOLLARS IN ACCOUNT = COLLATERAL CALL AMOUNT

17b. POSITION REPORT ANALYSIS (Continued) 10/05